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MILITARY OFFENSE RATES: RACIAL, ETHNIC, AND GENDER DIFFERENCES

Susan L. Polan
Patricia J. Thomas

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6 December 1985
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1. The Navy Affirmative Action Plan provides for annual assessments of all aspects of personnel management to ensure that the tenets of equal opportunity are being honored. The administration of military justice, one of the personnel systems that is monitored, is particularly susceptible to perceptions of unfairness that can only be dispelled through careful analysis of objective data and correction of any inequities detected.
2. Enclosure (1) presents the results of the second annual analysis of the quantitative aspects of military justice. It differs from the previous report (NPRDC SR 83-20) in that nonjudicial punishment was analyzed in addition to court-martial, and ethnic code was used as the identifier, rather than the more limited racial code.
3. This report is being distributed to those responsible for evaluating progress toward achieving equal opportunity and to Department of Defense commands that provide organizational effectiveness training or consulting. Requests for additional copies should be addressed to the Navy Personnel Research and Development Center, Code 623.

MARTIN F. WISKOFF
Director
Manpower and Personnel Laboratory

MPL Technical Note 86-2

November 1985

MILITARY OFFENSE RATES: RACIAL, ETHNIC, AND GENDER DIFFERENCES

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RESEARCH SUMMARY

Problem

The Navy Affirmative Action Plan requires that the quantifiable aspects of military justice be analyzed for racial-ethnic or gender differences. The purpose of this requirement is to identify inequities, if they exist, so that corrective action may be taken.

Objective

The objective of this research was to determine whether Navy personnel are disciplined without regard to racial-ethnic membership or gender.

Approach

Two samples were used in this study. The first paralleled a sample from an earlier investigation and consisted of all personnel receiving nonjudicial punishment (NJP) or courts-martial between 1 May 1982 and 30 April 1983. The second sample was based on documents reporting infractions; these documents contain the nature of the violation and the type of court-martial but no information on punishment. Only E-1 to E-4 personnel were retained in the analytical samples because the upper pay grades were severely underrepresented in the data base. The survival tracking file was used to obtain gender, race, and ethnic code for both samples.

The data were analyzed as two separate groups. Whites and men were used as the standard of comparison. Blacks, American Indians, Asians/Pacific Islanders, Filipinos, Hispanics, and women were the minority groups of interest.

Results

1. Blacks violated the Uniform Code of Military Justice more frequently than whites and received more NJPs; however, they were not awarded more courts-martial.
2. American Indians had the highest offense rate of any racial-ethnic group and were awarded the most courts-martial and NJPs.
3. Filipinos had the lowest offense rates of any racial-ethnic group, particularly of uniquely military offenses.
4. Hispanics also had lower offense rates than whites, fewer NJPs, and fewer summary courts-martial.
5. Asian/Pacific Islanders had lower offense rates than whites, they had fewer NJPs, and they were less likely to be found guilty of unauthorized absence.

Conclusion

No evidence was found to suggest that any minority group was receiving courts-martial and NJPs out of proportion to the number of violations their group committed.

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INTRODUCTION

Problem

The Navy-wide Affirmative Action Plan (NAAP) of 7 October 1981 (OPNAVINST 5343.3) requires that the quantifiable aspects of military justice be analyzed for racial-ethnic or gender differences. The purpose of this requirement is to identify any inequities so that corrective action may be taken. Conway (1983) conducted the first analysis to meet the NAAP requirement; this report presents the results of the second.

Background

In the military, perceptions of discrimination are not uncommon, particularly in the areas of promotion and justice (Beusse, 1977). Most of the research into the military justice system has centered on confirming or denying prejudice against black offenders. For example, Thomas (1976) found that black soldiers surveyed in 1972 were highly dissatisfied with the military justice system, while whites perceived the system to be free of discrimination. By 1974, however, blacks' perceptions had improved but evidence of a "backlash" among whites existed: More whites now believed that blacks were receiving an unfair advantage.

Several comparisons of the military and the civilian criminal justice systems have highlighted the effect of race on each. Nellum and Associates (1973) compared punishment rates by race, education, age, rank, prior record, and offense within these two systems. Their findings indicated the percentage of black service members who became involved with the military justice system was larger than the percentage of blacks in the military; also, in all branches of the service except the Navy, blacks were more likely to be charged with personal confrontations than whites. Moreover, blacks received longer sentences than whites. These results were confirmed in Bennett and Perry's (1975) research, which showed strong similarities between the military and civilian criminal justice systems, particularly in regard to minorities; blacks were overrepresented in both.

The proportion of men and women who become involved with the military justice system does not differ significantly in some analyses (Beusse, 1977). The Department of Defense (DoD), however, reported that during 1980 the discipline rates for enlisted men were more than twice the rates for enlisted women in all branches of the military except the Air Force (Office of the Assistant Secretary of Defense, 1981). Furthermore, the DoD report indicated that rates of absenteeism and desertion were more than three times as large for Navy men as women. The number of males discharged by sentence of court-martial was 10 times the number of women; for discharges in lieu of a trial by court-martial, male rates were 4.5 per 1000, while female rates were only 1 per 1000.

The Uniform Code of Military Justice (UCMJ), which appears in Chapter 47, Title 10 of the United States Code, was designed to set forth the rules and regulations specific to the military justice system. It includes information on military offenses, types of courts-martial that are convened, and the correct procedures to follow in the event of a violation. The UCMJ provides for three different courts-martial to fit varying degrees of crime. Summary courts deal with relatively minor offenses; special courts try offenses that are somewhat more serious; general courts try serious crimes. Punishment from each court may include forfeiture of pay, fine, detention, or reduction in rate. Confinement, before or after trial, is also possible under the UCMJ.

Article 15 of the UCMJ deals with nonjudicial punishment (NJP). Under Article 15, a minor infraction may be handled within the command. Punishment, as delimited by the UCMJ, is awarded by the commanding officer without resorting to a court-martial. A formal NJP session is not always deemed necessary, in which case a report would not be filed. Thus, NJP allows for a great deal of variance, which has caused the fairness of the system to be questioned (Thomas, Thomas, & Ward, 1974). According to Navy personnel, whites break laws and rules more often than either blacks or Hispanics, although it is the minorities who received more Article 15s (Hart, 1978). For Army personnel, however, rank is more highly associated with differences in both Article 15 rates and discharge rates than is sex or race (Hart, 1978). Since soldiers who are frequently involved in the military justice system are prematurely discharged, not permitted to reenlist, or not promoted, this finding is understandable.

In an attempt to determine whether court-martial rates and types of punishment awarded are related to race or gender, Conway (1983) analyzed aspects of Navy discipline for 1 May 1981 to 30 April 1982. The type of court-martial awarded and the sentence by the court were included in the analyses. Although white and black service members were somewhat overrepresented as offenders, no racial group was awarded courts-martial at a rate disproportionately high to their numbers. Women were court-martialed at a much lower proportion than men, and high school graduates had a lower mean number of courts-martial than nongraduates. Punishments awarded by the court did show racial differences, however. At summary court, whites were required to forfeit a significantly greater amount of their pay than were blacks. At both special and general courts, blacks were awarded longer periods of pretrial confinement than whites; at special court only, blacks received longer periods of posttrial confinement.

Conway pointed out several limitations to her study. The specific UCMJ articles violated were not identified on the data tapes, rendering comparisons for similar offenses impossible. Thus, the study was limited to analyzing rates of courts-martial and punishment only. Moreover, ethnic code was missing from the tape, so that only the differences among white, blacks, and "others" could be discussed.

In summary, the research on both infractions and the administration of military justice is inconclusive. Some studies have shown that no inequities exist between the majority group (white males) and various minorities; others suggest that race or ethnic membership may be a factor.

Objective

The objective of this research was to determine whether Navy personnel are disciplined without regard to racial-ethnic membership or gender.

PROCEDURE

Sources of Data and Samples

Because information about infractions and discipline was not complete in any single data source, two samples were used in this study. Sample 1 consisted of all Navy personnel who were court-martialed or received NJP between 1 May 1982 and 30 April 1983, and who had adjustments made to their leave or pay records. Sample 1 is similar to Conway's (1983), except that it is based on personnel in pay grades E-1 to E-4, rather than on first-term enlistees. The data represent the year following Conway's analysis.

Sample 2 was based on all court memoranda (documents reporting infractions) submitted to the Navy Military Personnel Command (NMPC) between 1 July and 15 September 1983. These documents are prepared for personnel who are judged guilty of an offense described in the UCMJ; they contain information on the nature of violations and of courts-martial.

Neither sample included information about the type of punishment awarded. Both samples included the entire population of offenders appearing in the data source during the period of interest. They overlap very little.

Only E-1 through E-4 personnel were retained in the samples, due to the under-representation of the upper pay grades (6% of the enlisted offenders vs. 43% of Navy). Time in the Navy was not controlled. Gender, race, and ethnic code for members of the sample were obtained from the survival tracking file.

Data Analysis

The independent variables investigated were race-ethnicity and gender, while the dependent variables were number of offenses or offenders and nature of offense. As rates of offenses are believed to decrease with an increase in aptitude level, the relationship between Armed Forces Qualification Test (AFQT) scores and the independent variables was also investigated. Unlike the previous analysis (Conway, 1983), which was based on the limited racial code available at that time, ethnic code was used. Whites and men were used as the standards of comparison, for race-ethnicity and gender respectively, because they are the majority groups in the Navy. The minority groups of interest were blacks, American Indians, Asian/Pacific Islanders, Filipinos, and Hispanics for race-ethnicity, and women for gender. Tests of significance that were performed were t-test for the differences between means and the z-ratio for differences between proportions. While the t statistic may be appropriately used regardless of sample size, significant values are difficult to achieve with samples of less than 30. The z-ratio should not be used when the frequency on which the proportion is based is less than 5 (Guilford, 1965). To achieve significance, the results had to reach the .05 level of probability that chance alone could not have accounted for the difference.

The data were analyzed as two separate groups. Sample 1 was used to investigate rates of offenders and offenses for minority groups in comparison to majority groups in the Navy. The second data set, based on the court memoranda, was used to investigate the nature of the offense committed. These latter data were categorized into the four classes of offenses developed by Nellum and Associates (1973) before determining rates per thousand. The classes and the offenses, including the UCMJ articles violated, are shown in Table 1.

Table 1
Classes of Violations Under the Uniform Code of
Military Justice (UCMJ)

<u>Class 1: Major Military Civilian Offenses</u>		<u>Class 3: Absence Without Leave</u>	
118	Murder	85	Desertion
119	Manslaughter	86	Unspecified AWOL
120	Rape	87	Missing movement
121	Larceny		
122	Robbery		
124	Maiming		
125	Sodomy		
128	Arson		
129	Burglary		
130	Housebreaking		
<u>Class 2: Confrontation or Status Offense</u>		<u>Class 4: Other Military/Civilian Offenses</u>	
89	Disrespect to officer	107	False official statements
90	Disobey officer	108	Destroyed government property
91	Disobey, disrespect, assault NCO	109	Destroying private property
92	Disobey order	115	Malingering
95	Escape	123	Forger, bad checks
116	Riot	127	Extortion
117	Provoking words and gestures	131	Perjury
		132	Fraudulent claim
		111	Driving while drunk
		112	Drunk on duty
		113	Misbehaving as sentinel
		134	Unspecified

Note. Based on categories developed by Nellum and Associates, 1973.

RESULTS

Rates of Offenses and Offenders

Analysis of Sample 1, personnel involved with military justice and grouped by gender and race-ethnicity, showed the rate for whites as 278 offenses per thousand E-1 to E-4 personnel (see Table 2). Blacks and American Indians were involved with the justice system at significantly higher rates than were whites, while Asian/Pacific Islanders, Filipinos, and Hispanics were involved at significantly lower rates. The rate of women was significantly lower than that of men. Approximately 22 percent of the offenses were committed by repeat offenders (untabled). None of the minority groups had a significantly higher rate of repeat offenders than that of whites.

Courts-martial and NJPs

Analysis of Sample 2 produced rates per thousand of courts-martial and NJPs, by ethnicity-race and gender (see Table 3). American Indians had significantly higher rates of special and summary courts-martial than did whites. Hispanics had a significantly lower rate of special courts-martial than whites. The rates for Filipinos for special and

Table 2
 UCMJ Offenses by Racial-Ethnic Group or Gender
 May 1982-April 1983
 (Sample 1)

Group	E-1 to E-4 Personnel in Navy Population ^a	UCMJ Offenses ^b	Rate per Thousand	Majority/ Minority Difference (z-ratio)
Majority: White	224,221	62,377	278.2	--
Minority: Black	43,652	12,655	289.9	5.34*
American Indian	1,446	567	392.1	12.08*
Asian/Pacific Islander	1,470	301	204.7	-5.68*
Filipino	4,153	422	101.6	-51.10*
Hispanic	11,005	2,496	226.8	-11.42*
Total	287,821	79,261		
Majority: Men	258,657	77,010	297.8	--
Minority: Women	29,165	2,251	77.2	-43.66*

^aTaken from Navy Military Personnel Command, 1983.

^bTaken from data provided by Navy Finance Center.

*p < .001.

Table 3

Rate per Thousand for Type of Court-Martial and NJP
 by Racial-Ethnic Group or Gender
 July-September 1983
 (Sample 2)

Group	Type of Court-Martial							
	General		Special		Summary		NJP	
	Rate	N	Rate	N	Rate	N	Rate	N
White	0.8	185	20.7	4,649	11.5	2,583	245.1	54,960
Black	1.0	44	17.8	776	10.3	448	260.8	11,387
American Indian	2.1	3	36.0	52	26.3	38	327.8	474
Asian/Pacific Islander	0.0	0	15.6	23	12.9	19	176.2	259
Filipino	0.7	3	9.9	41	4.8	20	86.2	358
Hispanic	0.8	9	12.4	137	9.1	100	204.4	2,250
Men	0.9	243	21.7	5,610	12.1	3,141	263.0	68,016
Women	0.03	1	3.6	104	2.8	83	70.7	2,063

Test of Significance of Difference Between Proportions

White/Black	n/s	n/s	n/s	7.52**
White/American Indian	a	2.70**	2.85**	9.49***
White/Asian Pacific Islander	a	n/s	n/s	-5.89***
White/Filipino	a	n/s	n/s	-15.99***
White/Hispanic	n/s	-2.39*	n/s	-10.25***
Men/Women	a	-4.58***	-2.59***	-42.84***

^aFrequency of occurrence too small for z-test of difference between proportions.

*p < .05.

**p < .01.

***p < .001.

summary courts, while considerably lower than those of whites, did not achieve significance in the comparison. All comparisons of NJP rates between whites and minority groups resulted in significant findings. The rates of blacks and American Indians were higher than those of whites, whereas Asian/Pacific Islanders, Filipinos, and Hispanics were lower. Gender differences were evident in the data. Women had significantly lower rates of special and summary courts-martial and of NJPs.

Nature of Offense

The analysis of the court memorandum data (Sample 2, Table 4) used a rate per thousand based on an annual estimate rather than the single quarter for which the data were available. Compared to the majority group, blacks had the highest rate of major military/civilian offenses (Class 1), while American Indians had the highest rate of both unauthorized absence (Class 3) and other military/civilian offenses (Class 4). Filipinos and Hispanics had significantly lower rates for three classes of offenses than did whites. In comparison to whites, Asian/Pacific Islanders had a significantly lower rate of unauthorized absences (Class 3) and a significantly higher rate of other military/civilian offenses (Class 4). The tests for the difference between proportions of blacks and whites revealed that blacks had significantly more of all types of offenses.

Table 4

Rate per Thousand for Class of Offense by
Racial-Ethnic Group or Gender
(Annual Estimate--Sample 2)

Group	Class of Offense							
	1. Major Military/Civilian		2. Confrontation or Status		3. Unauthorized Absence		4. Other Military/Civilian	
	Rate	N	Rate	N	Rate	N	Rate	N
White	10.9	2,440	44.2	9,912	87.6	19,644	79.4	17,792
Black	21.7	948	56.7	2,476	96.0	4,192	98.0	4,276
American Indian	16.6	24	55.3	80	188.1	272	135.0	196
Asian/Pacific Islander	13.6	20	73.5	64	73.5	108	87.1	128
Filipino	8.7	36	14.4	60	30.8	128	29.9	124
Hispanic	15.2	168	38.1	420	78.1	860	73.6	816
Men	15.3	3,976	54.7	14,160	107.0	27,668	97.6	25,232
Women	1.5	132	17.2	504	21.0	612	25.8	752

Tests of Significance of Difference Between Proportions

White/Black	8.31**	11.16**	16.80**	31.00**
White/American Indian	n/s	1.98*	52.56**	20.21**
White/Asian/Pacific Islander	n/s	n/s	-4.50**	2.13*
White/Filipino	n/s	-4.66**	-18.93**	-13.49**
White/Hispanic	n/s	-2.47*	-8.11**	-3.98**
Men/Women	-4.37**	-16.58**	-94.11**	-89.02**

Note. When the N for a group is very small, differences may be primarily due to chance. What appears to be a large difference should not be interpreted as such and used for decision making.

*p < .05.

**p < .001.

Unauthorized absence and Class 4 military/civilian offenses were the most commonly violated sections of the UCMJ. Men's rates for all types of offenses were significantly higher than women's.

AFQT Scores

Because disciplinary rates are generally believed to decrease with increases in aptitude level, mean AFQT scores were computed for each group in Sample 1. As shown in Table 5, whites had the highest mean score, while Filipinos had the lowest. American Indians are the only group that did not have a significantly lower mean than whites. Women had a significantly higher mean AFQT score than men. Thus, for the two largest minority groups, blacks and women, the direction of the relationship between aptitude level and number of offenses appears to be consistent with popular wisdom; for Hispanics, Filipinos, Asian/Pacific Islanders, and American Indians, it is not.

Table 5

Mean AFQT Scores for Offenders by
Racial-Ethnic Group or Gender
(Sample 1)

Group	Mean	Standard Deviation	Majority/Minority Difference
White	59.04	18.29	--
Black	44.61	16.78	1.19*
American Indian	54.92	18.70	n/s
Asian/Pacific Islander	52.46	21.88	1.43*
Filipino	42.01	20.28	1.23*
Hispanic	49.05	17.12	1.17*
Men	56.19	18.92	--
Women	58.25	17.38	-1.18*

*p < .001.

DISCUSSION AND CONCLUSIONS

On an annual basis, one out of every four E-1 to E-4 Navy personnel was involved with the military justice system between May 1982 and April 1983 (see Table 2). Most of the offenses led to NJP, however, and only 6 percent were serious enough to result in courts-martial. Consistent with the previous study (Conway, 1983), special courts were

the most common type of court among all racial-ethnic groups. Summary courts, while less serious, are not convened as often as special courts, because commanding officers can usually achieve their goal through NJP with less effort.

In the following discussion of findings for each racial-ethnic group or gender, the analyses of two separate samples will be conjoined. While there are risks associated with such linkage, it is the only means available to the researcher for investigating offenses committed and punishment awarded. Moreover, the risk of arriving at erroneous conclusions is reduced by the fact that both data sets are large and represent the entire population of E-1 to E-4 personnel in each data source.

Blacks were found guilty of violating the UCMJ significantly more frequently than whites. Although blacks had significantly higher rates of every class of offense than whites, they received no more courts-martial of any type. They did receive significantly more NJPs, however. Conway (1983) also found that the court-martial rate of blacks and whites did not differ, but she had no information on class of offense or number of NJPs. Thus, any difference in treatment occurring after the filing of a charge appears to be biased in favor of blacks, not against them. There is no way of knowing from these data whether charges are initiated without regard to race.

American Indians, whose unauthorized absence rate was twice that of every other group and who had a high rate of Class 4 military/civilian offenses, were awarded proportionately more courts-martial than whites.

The rate per thousand of Filipino offenders was less than one half that of any other group. Although Filipinos had significantly fewer confrontation violations, unauthorized absences, and Class 4 military/civilian offenses, they did not have significantly fewer courts-martial. Their NJP rate, however, was significantly lower. These findings are consistent with the commonly held belief that Filipinos who join the Navy are career motivated and exert pressure on their compatriots to conform to established norms of hard work and good behavior. Low numbers of unauthorized absence and confrontations, uniquely military offenses, would be expected to occur. Thus, it appears that when the negative behavior of Filipinos warrants the attention of their commands, the offenses are more serious.

Hispanics were also significantly underrepresented in the sample of offenders. Like the Filipinos, Hispanics were found guilty of substantially fewer crimes in three of the four classes of offenses and were awarded fewer NJPs. Unlike Filipinos, they had significantly fewer special courts.

Asian/Pacific Islanders had a lower NJP rate than whites, but their court-martial rate did not differ significantly. The court memorandum data showed that Asian/Pacific Islanders had lower unauthorized absence rates than whites, but a higher rate of Class 4 military/civilian offenses.

The overall offense rate of women was much lower than that of men. Women committed fewer of all types of crimes and were awarded fewer courts-martial and NJPs than men. This finding was consistent with the results obtained by Conway (1983), who found that women's court martial rate was less than one fifth that of men. Though the number of courts-martial was higher in this analysis, the ratio of the women's rate to men's was the same. Some writers have hypothesized that, as the role of women more closely approximates that of men, their behavior will warrant an increase in disciplinary actions. Clearly, no such change was reflected in these figures.

The relationship between aptitude, as measured by the AFQT, and disciplinary rates was inconsistent. Blacks, Asian/Pacific Islanders, Filipinos, and Hispanics all had significantly lower AFQT scores than whites; only the first of these groups had higher overall disciplinary rates. American Indians, whose mean AFQT was not significantly below the white mean, had the highest offense rates. This lack of relationship was also noted by Conway (1983), who reported that amount of education, but not mental level, had a significant main effect in the two-way ANOVA performed for number of offenses. Women had a higher AFQT mean and low offense rates. Thus, the results of blacks and women are consistent with the perception that a negative relationship between aptitude and violations exists. Since these two groups are the largest minority groups, and often the only ones in an analysis investigating equity in military justice, the persistence of this perception is understandable. These results emphasize, however, that studies conducted to support the NAAP should be moderated by ethnicity, and not just racial group.

Annual analyses of military justice ought to be based on information about violations and punishment for the same individuals. Achieving this goal will require considerable effort on the part of NMPC because these data are not maintained on any existing tape. However, until offenses can be linked to the punishment awarded, the question of equal treatment cannot be adequately addressed. In the meantime, Navy management can report that no evidence was found to suggest that any minority group is being discriminated against in the meting out of justice.

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